

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ILLINOIS UNION INSURANCE COMPANY)	
as subrogee of CITY OF LAWRENCE)	CIVIL ACTION
)	
Plaintiff,)	NO. 04-10475 MLW
v.)	
)	
THE VIKING CORPORATION)	
)	
Defendant.)	

JOINT MOTION TO EXTEND THE DEADLINE TO AMEND THE COMPLAINT

Plaintiff, Illinois Union Insurance Company (“Illinois Union”), and Defendant, Viking Corporation (“Viking”), jointly move this Court to extend the deadline to complete fact discovery and amend the Complaint up to and including February 28, 2006 and adjust all remaining discovery dates as outlined in the accompanying *Third Amended Discovery Conference Report*. In support of this motion, the parties state as follows:

(1) Since the status conference before the Court on September 13, 2005, the parties have been continuing to cooperate with discovery. However, the City of Lawrence continues to reluctantly produce documents and only after repeated requests by both Viking and Illinois Union. For example, during the 30(b)(6) deposition of the City of Lawrence Fire Department, the parties learned for the first time that there were malfunctions with the fire alarm system at the Guilmette School. Specifically, the fire alarm panel, which indicates the precise location that triggered the fire alarm, malfunctioned on October 5, 2003, the date of the incident with the sprinkler head at issue in this case. As such, the parties need to take further discovery relating to the maintenance, testing, and/or repairs on the fire alarm panel. In addition, the Department of Public Works has produced approximately thirty pages of documents even though several people

have testified that it was involved in the overall maintenance of the Guilmette School. Most recently, the parties learned during the deposition of the Assistant School Superintendent, Mary Lou Beregon, on October 20, 2005, that an event may have been held in the gymnasium on the day of the loss. Viking wishes to take discovery on this newly raised issue. The parties continue to make every effort to resolve any discovery issues without the assistance of the Court.

(2) The parties also need to continue the deposition of the 30(b)(6) designee for the City of Lawrence Fire Department and take the 30(b)(6) deposition of Department of Public Works to include the person who performed the document searches, to determine and confirm if full and complete production has been made.

(3) In addition, Illinois Union wishes to depose a Viking designee, which will require out of state travel.

(4) Further, Illinois Union's counsel has trial commitments for the weeks of January 16 and 23, 2005.

(5) Given the newly discovered evidence and potential issues in this case, it may be necessary for one or both of the parties to amend the complaint and bring in a new party upon further discovery.

(6) Therefore, the parties jointly move this Court to extend the time to complete discovery and amend the Complaint through February 28, 2006 and to adopt all remaining deadlines as stated in the *Third Amended Joint Discovery Order*.

WHEREFORE, Viking and Illinois Union respectfully request this Court to:

1. Extend the time for fact discovery and for either party to amend the Complaint up to and including February 28, 2006;
2. Enter an Order adopting and entering the *Third Amended Scheduling Order*; and
3. Grant all such other relief that this Court deems just and appropriate.

Respectfully submitted,

Plaintiff Illinois Union Insurance Company
as subrogee of City of Lawrence,
By Its Attorneys,

/s/ James P. Cullen, Jr. (with permission)
James P. Cullen, Jr., Esquire
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Dated: November 22, 2005

CO-COUNSEL:
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Attorney for Plaintiff

Respectfully submitted,

Defendant Viking Corporation
By Its Attorneys,

/s/ Gina M. McCreadie
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Dated: November 22, 2005

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2005, a true and correct copy of the *Joint Motion to Extend the Deadline to Amend the Complaint* was served upon the attorney of record for each party registered for electronic notification via the Court's electronic filing system and via first class mail on the following:

Patrick J. Loftus, III
No. 9 Park Street
Suite 500
Boston, MA 02108

/s/ Gina M. McCreadie
Gina M. McCreadie